

2 **SHB 1678** - S COMM AMD
3 By Committee on Transportation

4 ADOPTED 04/04/01

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. Sec. 1. A new section is added to chapter 47.26 RCW
8 to read as follows:

9 The term "advance right-of-way acquisition" as used in this chapter
10 means the acquisition of property and property rights, together with
11 the engineering costs necessary for the advance right-of-way
12 acquisition. Property or property rights purchased must be for
13 projects approved by the transportation improvement board or the county
14 road administration board as part of a city or county six-year plan or
15 program.

16 NEW SECTION. Sec. 2. A new section is added to chapter 47.26 RCW
17 to read as follows:

18 The city and county advance right-of-way revolving fund is created
19 in the custody of the treasurer. The transportation improvement board
20 is the administrator of the fund and may deposit directly and spend
21 without appropriation.

22 The transportation improvement board and the county road
23 administration board, in consultation with the association of
24 Washington cities and the Washington association of counties, shall
25 adopt reasonable rules and develop policies to implement this program.

26 NEW SECTION. Sec. 3. A new section is added to chapter 47.26 RCW
27 to read as follows:

28 (1) After any properties or property rights are acquired through
29 funds in the city and county advance right-of-way revolving fund, the
30 acquiring city or county is responsible for the management of the
31 properties in accordance with sound business practices and shall
32 provide annual status reports to the board. Funds received by the city
33 or county from the interim management of the properties must be
34 deposited into the city and county advance right-of-way revolving fund.

1 (2) When the city or county proceeds with the construction of an
2 arterial project that will require the use of any of the property so
3 acquired, the city or county shall reimburse the city and county
4 advance right-of-way revolving fund. Reimbursement must reflect the
5 original cost of the acquired property or property rights required for
6 the project plus an interest rate as determined annually by the board.
7 The board shall report on the interest rate set to the transportation
8 committees through its annual report.

9 (3) When the city or county determines that any properties or
10 property rights acquired from funds in the city and county advance
11 right-of-way revolving fund will not be required for an arterial
12 construction project or the property has been held by the city or
13 county for more than six years, the city or county shall either sell
14 the property at fair market value or reimburse the fund at fair market
15 value. All proceeds of the sale must be deposited in the city and
16 county advance right-of-way revolving fund. At the board's discretion,
17 a portion of savings on transportation improvement board projects
18 realized through the use of the city and county advance revolving fund
19 may be deposited back into the city and county advance right-of-way
20 revolving fund.

21 (4) Deposits in the fund may be reexpended without further or
22 additional appropriations.

23 **Sec. 4.** RCW 43.79A.040 and 2000 c 79 s 45 are each amended to read
24 as follows:

25 (1) Money in the treasurer's trust fund may be deposited, invested,
26 and reinvested by the state treasurer in accordance with RCW 43.84.080
27 in the same manner and to the same extent as if the money were in the
28 state treasury.

29 (2) All income received from investment of the treasurer's trust
30 fund shall be set aside in an account in the treasury trust fund to be
31 known as the investment income account.

32 (3) The investment income account may be utilized for the payment
33 of purchased banking services on behalf of treasurer's trust funds
34 including, but not limited to, depository, safekeeping, and
35 disbursement functions for the state treasurer or affected state
36 agencies. The investment income account is subject in all respects to
37 chapter 43.88 RCW, but no appropriation is required for payments to

1 financial institutions. Payments shall occur prior to distribution of
2 earnings set forth in subsection (4) of this section.

3 (4)(a) Monthly, the state treasurer shall distribute the earnings
4 credited to the investment income account to the state general fund
5 except under (b) and (c) of this subsection.

6 (b) The following accounts and funds shall receive their
7 proportionate share of earnings based upon each account's or fund's
8 average daily balance for the period: The Washington advanced college
9 tuition payment program account, the agricultural local fund, the
10 American Indian scholarship endowment fund, the basic health plan self-
11 insurance reserve account, the Washington international exchange
12 scholarship endowment fund, the developmental disabilities endowment
13 trust fund, the energy account, the fair fund, the game farm
14 alternative account, the grain inspection revolving fund, the juvenile
15 accountability incentive account, the rural rehabilitation account, the
16 stadium and exhibition center account, the youth athletic facility
17 ((grant)) account, the self-insurance revolving fund, the sulfur
18 dioxide abatement account, and the children's trust fund. However, the
19 earnings to be distributed shall first be reduced by the allocation to
20 the state treasurer's service fund pursuant to RCW 43.08.190.

21 (c) The following accounts and funds shall receive eighty percent
22 of their proportionate share of earnings based upon each account's or
23 fund's average daily balance for the period: The advanced right of way
24 revolving fund, the advanced environmental mitigation revolving
25 account, the city and county advance right-of-way revolving fund, the
26 federal narcotics asset forfeitures account, the high occupancy vehicle
27 account, the local rail service assistance account, and the
28 miscellaneous transportation programs account.

29 (5) In conformance with Article II, section 37 of the state
30 Constitution, no trust accounts or funds shall be allocated earnings
31 without the specific affirmative directive of this section.

32 **Sec. 5.** RCW 47.44.010 and 1980 c 28 s 1 are each amended to read
33 as follows:

34 (1) The department of transportation may grant franchises to
35 persons, associations, private or municipal corporations, the United
36 States government, or any agency thereof, to use any state highway for
37 the construction and maintenance of water pipes, flume, gas, oil or
38 coal pipes, telephone, telegraph and electric light and power lines and

1 conduits, trams or railways, and any structures or facilities (~~((which))~~)
2 that are part of an urban public transportation system owned or
3 operated by a municipal corporation, agency, or department of the state
4 of Washington other than the department of transportation, and any
5 other such facilities. In order to minimize the disruption to traffic
6 and damage to the roadway, the department is encouraged to develop a
7 joint trenching policy with other affected jurisdictions so that all
8 permittees and franchisees requiring access to ground under the roadway
9 may do so at one time.

10 (2) All applications for (~~((such))~~) the franchise (~~((shall))~~) must be
11 made in writing and subscribed by the applicant, and (~~((shall))~~) describe
12 the state highway or portion thereof over which franchise is desired
13 and the nature of the franchise. The application must also include the
14 identification of all jurisdictions affected by the franchise and the
15 names of other possible franchisees who should receive notice of the
16 application for a franchise.

17 (3) The department of transportation shall adopt rules providing
18 for a hearing or an opportunity for a hearing with reasonable public
19 notice thereof with respect to any franchise application involving the
20 construction and maintenance of utilities or other facilities within
21 the highway right of way which the department determines may (~~((+1))~~)
22 (a) during construction, significantly disrupt the flow of traffic or
23 use of driveways or other facilities within the right of way, or
24 (~~((+2))~~) (b) during or following construction, cause a significant and
25 adverse effect upon the surrounding environment.

26 **Sec. 6.** RCW 47.44.020 and 1980 c 28 s 2 are each amended to read
27 as follows:

28 (1) If the department of transportation deems it to be for the
29 public interest, the franchise may be granted in whole or in part, with
30 or without hearing under such regulations and conditions as the
31 department may prescribe, with or without compensation, but not in
32 excess of the reasonable cost for investigating, handling, and granting
33 the franchise. The department may require that the utility and
34 appurtenances be so placed on the highway that they will, in its
35 opinion, least interfere with other uses of the highway.

36 (2) If a hearing is held, it (~~((shall))~~) must be conducted by the
37 department, and may be adjourned from time to time until completed.

1 The applicant may be required to produce all facts pertaining to the
2 franchise, and evidence may be taken for and against granting it.

3 (3) The facility (~~shall~~) must be made subject to removal when
4 necessary for the construction, alteration, repair, or improvement of
5 the highway and at the expense of the franchise holder, except that the
6 state shall pay the cost of (~~such~~) the removal whenever the state
7 (~~shall be~~) is entitled to receive proportionate reimbursement
8 therefor from the United States in the cases and in the manner set
9 forth in RCW 47.44.030. Renewal upon expiration of a franchise
10 (~~shall~~) must be by application.

11 (4) A person constructing or operating such a utility on a state
12 highway is liable to any person injured thereby for any damages
13 incident to the work of installation or the continuation of the
14 occupancy of the highway by the utility, and except as provided above,
15 is liable to the state for all necessary expenses incurred in restoring
16 the highway to a permanent suitable condition for travel. A person
17 constructing or operating such a utility on a state highway is also
18 liable to the state for all necessary expenses incurred in inspecting
19 the construction and restoring the pavement or other related
20 transportation equipment or facilities to a permanent condition
21 suitable for travel and operation in accordance with requirements set
22 by the department. Permit and franchise holders are also financially
23 responsible to the department for trenching work not completed within
24 the contractual period and for compensating for the loss of useful
25 pavement life caused by trenching. No franchise may be granted for a
26 longer period than fifty years, and no exclusive franchise or privilege
27 may be granted.

28 (5) The holder of a franchise granted under this section is
29 financially responsible to the department for trenching work not
30 completed within the period of the permit and for compensating for the
31 loss of useful pavement life caused by trenching. In the case of
32 common trenching operations, liability under this subsection will be
33 assessed equally between the franchisees. The assessed parties may
34 thereafter pursue claims of contribution or indemnity in accord with
35 such fault as may be determined by arbitration or other legal action.

36 **Sec. 7.** RCW 47.44.050 and 1984 c 7 s 237 are each amended to read
37 as follows:

1 (1) The department (~~((is—empowered to))~~) may grant a permit to
2 construct or maintain on, over, across, or along any state highway any
3 water, gas, telephone, telegraph, light, power, or other such
4 facilities when they do not extend along the state highway for a
5 distance greater than three hundred feet. The department may require
6 such information as it deems necessary in the application for any such
7 permit, and may grant or withhold the permit within its discretion.
8 Any permit granted may be canceled at any time, and any facilities
9 remaining upon the right of way of the state highway after thirty days
10 written notice of the cancellation (~~((is—[are]))~~) are an unlawful
11 obstruction and may be removed in the manner provided by law.

12 (2) The holder of a permit granted under this section is
13 financially responsible to the department for trenching work not
14 completed within the period of the permit and for compensating for the
15 loss of useful pavement life caused by trenching. In the case of
16 common trenching operations, liability under this subsection will be
17 assessed equally between the permit holders. The assessed parties may
18 thereafter pursue claims of contribution or indemnity in accord with
19 such fault as may be determined by arbitration or other legal action.

20 **Sec. 8.** RCW 47.24.020 and 1993 c 126 s 1 are each amended to read
21 as follows:

22 The jurisdiction, control, and duty of the state and city or town
23 with respect to such streets (~~((shall be))~~) is as follows:

24 (1) The department has no authority to change or establish any
25 grade of any such street without approval of the governing body of such
26 city or town, except with respect to limited access facilities
27 established by the commission;

28 (2) The city or town shall exercise full responsibility for and
29 control over any such street beyond the curbs and if no curb is
30 installed, beyond that portion of the highway used for highway
31 purposes. However, within incorporated cities and towns the title to
32 a state limited access highway vests in the state, and, notwithstanding
33 any other provision of this section, the department shall exercise full
34 jurisdiction, responsibility, and control to and over such facility as
35 provided in chapter 47.52 RCW;

36 (3) The department has authority to prohibit the suspension of
37 signs, banners, or decorations above the portion of such street between

1 the curbs or portion used for highway purposes up to a vertical height
2 of twenty feet above the surface of the roadway;

3 (4) The city or town shall at its own expense maintain all
4 underground facilities in such streets, and has the right to construct
5 such additional underground facilities as may be necessary in such
6 streets. However, pavement trenching and restoration performed as part
7 of installation of such facilities must meet or exceed requirements
8 established by the department;

9 (5) The city or town has the right to grant the privilege to open
10 the surface of any such street, but all damage occasioned thereby shall
11 promptly be repaired either by the city or town itself or at its
12 direction. Pavement trenching and restoration performed under a
13 privilege granted by the city under this subsection must meet or exceed
14 requirements established by the department;

15 (6) The city or town at its own expense shall provide street
16 illumination and shall clean all such streets, including storm sewer
17 inlets and catch basins, and remove all snow, except that the state
18 shall when necessary plow the snow on the roadway. In cities and towns
19 having a population of twenty-two thousand five hundred or less
20 according to the latest determination of population by the office of
21 financial management, the state, when necessary for public safety,
22 shall assume, at its expense, responsibility for the stability of the
23 slopes of cuts and fills and the embankments within the right of way to
24 protect the roadway itself. When the population of a city or town
25 first exceeds twenty-two thousand five hundred according to the
26 determination of population by the office of financial management, the
27 city or town shall have three years from the date of the determination
28 to plan for additional staffing, budgetary, and equipment requirements
29 before being required to assume the responsibilities under this
30 subsection. The state shall install, maintain, and operate all
31 illuminating facilities on any limited access facility, together with
32 its interchanges, located within the corporate limits of any city or
33 town, and shall assume and pay the costs of all such installation,
34 maintenance, and operation incurred after November 1, 1954;

35 (7) The department has the right to use all storm sewers on such
36 highways without cost; and if new storm sewer facilities are necessary
37 in construction of new streets by the department, the cost of the
38 facilities shall be borne by the state and/or city as may be mutually

1 agreed upon between the department and the governing body of the city
2 or town;

3 (8) Cities and towns have exclusive right to grant franchises not
4 in conflict with state laws and rules, over, beneath, and upon such
5 streets, but the department is authorized to enforce in an action
6 brought in the name of the state any condition of any franchise which
7 a city or town has granted on such street. No franchise for
8 transportation of passengers in motor vehicles may be granted on such
9 streets without the approval of the department, but the department
10 shall not refuse to approve such franchise unless another street
11 conveniently located and of strength of construction to sustain travel
12 of such vehicles is accessible;

13 (9) Every franchise or permit granted any person by a city or town
14 for use of any portion of such street by a public utility (~~shall~~)
15 must require the grantee or permittee to restore, repair, and replace
16 (~~to its original condition~~) any portion of the street damaged or
17 injured by it to conditions that meet or exceed requirements
18 established by the department;

19 (10) The city or town has the right to issue overload or overwidth
20 permits for vehicles to operate on such streets or roads subject to
21 regulations printed and distributed to the cities and towns by the
22 department;

23 (11) Cities and towns shall regulate and enforce all traffic and
24 parking restrictions on such streets, but all regulations adopted by a
25 city or town relating to speed, parking, and traffic control devices on
26 such streets not identical to state law relating thereto are subject to
27 the approval of the department before becoming effective. All
28 regulations pertaining to speed, parking, and traffic control devices
29 relating to such streets heretofore adopted by a city or town not
30 identical with state laws shall become null and void unless approved by
31 the department heretofore or within one year after March 21, 1963;

32 (12) The department shall erect, control, and maintain at state
33 expense all route markers and directional signs, except street signs,
34 on such streets;

35 (13) The department shall install, operate, maintain, and control
36 at state expense all traffic control signals, signs, and traffic
37 control devices for the purpose of regulating both pedestrian and motor
38 vehicular traffic on, entering upon, or leaving state highways in
39 cities and towns having a population of twenty-two thousand five

1 hundred or less according to the latest determination of population by
2 the office of financial management. Such cities and towns may submit
3 to the department a plan for traffic control signals, signs, and
4 traffic control devices desired by them, indicating the location,
5 nature of installation, or type thereof, or a proposed amendment to
6 such an existing plan or installation, and the department shall consult
7 with the cities or towns concerning the plan before installing such
8 signals, signs, or devices. Cities and towns having a population in
9 excess of twenty-two thousand five hundred according to the latest
10 determination of population by the office of financial management shall
11 install, maintain, operate, and control such signals, signs, and
12 devices at their own expense, subject to approval of the department for
13 the installation and type only. When the population of a city or town
14 first exceeds twenty-two thousand five hundred according to the
15 determination of population by the office of financial management, the
16 city or town shall have three years from the date of the determination
17 to plan for additional staffing, budgetary, and equipment requirements
18 before being required to assume the responsibilities under this
19 subsection. For the purpose of this subsection, striping, lane
20 marking, and channelization are considered traffic control devices;

21 (14) All revenue from parking meters placed on such streets belongs
22 to the city or town;

23 (15) Rights of way for such streets shall be acquired by either the
24 city or town or by the state as shall be mutually agreed upon. Costs
25 of acquiring rights of way may be at the sole expense of the state or
26 at the expense of the city or town or at the expense of the state and
27 the city or town as may be mutually agreed upon. Title to all such
28 rights of way so acquired shall vest in the city or town: PROVIDED,
29 That no vacation, sale, rental, or any other nontransportation use of
30 any unused portion of any such street may be made by the city or town
31 without the prior written approval of the department; and all revenue
32 derived from sale, vacation, rental, or any nontransportation use of
33 such rights of way shall be shared by the city or town and the state in
34 the same proportion as the purchase costs were shared;

35 (16) If any city or town fails to perform any of its obligations as
36 set forth in this section or in any cooperative agreement entered into
37 with the department for the maintenance of a city or town street
38 forming part of the route of a state highway, the department may notify
39 the mayor of the city or town to perform the necessary maintenance

1 within thirty days. If the city or town within the thirty days fails
2 to perform the maintenance or fails to authorize the department to
3 perform the maintenance as provided by RCW 47.24.050, the department
4 may perform the maintenance, the cost of which is to be deducted from
5 any sums in the motor vehicle fund credited or to be credited to the
6 city or town.

7 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this
8 act, referencing this act by bill or chapter number, is not provided by
9 June 30, 2001, in the transportation appropriations act, this act is
10 null and void."

11 **SHB 1678** - S COMM AMD
12 By Committee on Transportation

13 ADOPTED 04/04/01

14 In line 1 of the title, after "acquisition;" strike the remainder
15 of the title and insert "amending RCW 43.79A.040, 47.44.010, 47.44.020,
16 47.44.050, and 47.24.020; adding new sections to chapter 47.26 RCW; and
17 creating a new section."

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